HOUSE No. 4116 [LOCAL APPROVAL RECEIVED.]

The Commi	onwealth of Massachusetts
	PRESENTED BY:
	Geraldo Alicea
Court assembled:	entatives of the Commonwealth of Massachusetts in General izens respectfully petition for the passage of the accompanying bil
	Municipal Hearing Officer in the Town of Southbridge
	PETITION OF:
Name:	DISTRICT/ADDRESS:
Geraldo Alicea	6th Worcester
Richard T. Moore	

The Commonwealth of Massachusetts

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AN ACT ESTABLISHING THE POSITION OF MUNICIPAL HEARING OFFICER IN THE TOWN OF SOUTHBRIDGE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding section 21D of chapter 40 of the General Laws, a person who 1 2 desires to contest a violation of any ordinance of the town of Southbridge alleged in a notice to appear, 3 pursuant to violations issued by the town in accordance with said section 21D of said chapter 40 shall 4 request, in writing, a hearing before a municipal hearing officer, who shall be appointed by the town 5 manager, with the approval of the town council, to conduct requested hearings pursuant to this act. The 6 notice to appear shall be in the format required under said section 21D of said chapter 40, except that the 7 third copy of the notice shall be submitted to the municipal hearing officer. The municipal hearing officer 8 may be the same person appointed as municipal hearing officer pursuant to chapter 148A of the General 9 10 **SECTION 2.** Where a notice to appear is for 1 or more code violations, the person notified to appear 11 shall return the notice of violation by mail, personally or by an authorized person to the municipal hearing 12 officer and shall, within 21 days, either: (a) pay, in full, the scheduled assessment by check, postal note or 13 money order; or (b) request a hearing before the municipal hearing officer. Any amounts paid shall be 14 payable to the town of Southbridge. If the person notified to appear requests, in a timely manner, a 15 hearing before the municipal hearing officer, the municipal hearing officer shall schedule a hearing not 16 later than 45 days after receiving the hearing request. The municipal hearing officer shall send a hearing 17 notice to duly notify the person notified to appear of the date, time and location of the hearing. Hearings 18 shall be held at least twice each month, in the evening. When a hearing notice is sent, the person notified 19 to appear shall be given an opportunity to request a rescheduled hearing date. The municipal hearing 20 officer, so designated, shall not be an employee or officer of the department associated with the issuance 21 of the notice of violation. The municipal hearing officer shall receive annual training in the conduct of 22 administrative hearing procedure. The hearings and dispositions by the municipal hearing officer shall be 23 informal and the formal rules of evidence shall not apply. In conducting the hearings, the municipal 24 hearing officer shall find whether the violation occurred and whether it was committed by the person so 25 notified to appear. 26 **SECTION 3.** Any person aggrieved by a decision of the municipal hearing officer, after a hearing, may

- appeal to the district court pursuant to section 21D of chapter 40 of the General Laws, on a form provided
- by the town, and shall be entitled to a de novo hearing before a clerk magistrate of the court. The district
- 29 court shall consider such appeals under a civil, as opposed to a criminal, standard. The aggrieved person
- 30 shall file the appeal within 10 days after receiving notice of the decision from the municipal hearing
- 31 officer who conducted the hearing.
- 32 **SECTION 4.** Any person who has received a notice to appear issued in accordance with this procedure
- who, within the prescribed time: fails to pay the scheduled assessment; fails to request a hearing before
- 34 the municipal hearing officer; or fails to appear at the time and place of the hearing shall be found
- responsible for the violations as stated in the notice to appear and such finding of responsibility shall be
- 36 considered prima facie evidence of a finding of responsibility for the violation in any civil proceeding
- 37 regarding said violation and shall be admissible as evidence in a subsequent criminal proceeding. A
- 38 person who fails to appear at the scheduled hearing without good cause shall have the appeal dismissed
- 39 and shall waive any further right to appeal. If the condition which caused the notice to appear to issue
- 40 continues to exist, the finding of responsibility may also be used by the town of Southbridge as prima
- 41 facie evidence of the existence of a violation in any proceeding to suspend or revoke any license, permit
- or certificate issued by the town relative to the building, structure or premises pending the correction of
- 43 the condition.
- 44 **SECTION 5.** All fines, penalties or assessments in actions under this act, shall be paid to the general
- 45 fund of the town of Southbridge.
- 46 **SECTION 6.** This act shall take effect upon its passage.